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Issued in Los Angeles, California, on November 21, 1995.

James H. Snow,

*Acting Manager, Air Traffic Division,
Western-Pacific Region.*

[FR Doc. 95-29348 Filed 11-30-95; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 93F-0166]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of pyromellitic dianhydride as a modifier in the manufacture of polyethylene terephthalate copolymers intended for food-contact applications. This action is in response to a petition filed by M. & G. Ricerche S.p.A.

DATES: Effective December 1, 1995; written objections and requests for a hearing by January 2, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 12, 1993 (58 FR 42975), FDA announced that a food additive petition (FAP 3B4375) had been filed by M. & G. Ricerche, S.p.A., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001 (formerly c/o Delta Analytical Corp., 7910 Woodmont Ave., suite 1000, Bethesda, MD 20814). The petition proposed to amend the food additive regulations in § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) to provide for the safe use of pyromellitic dianhydride as a modifier in the manufacture of polyethylene terephthalate copolymers intended for food-contact applications.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use in polyethylene terephthalate food-contact articles is safe, and the regulation in § 177.1630 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before January 2, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging. Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.1630 is amended in paragraph (e)(4) by alphabetically adding a new substance to paragraph (i) in the "List of Substances and Limitations" to read as follows:

§ 177.1630 Polyethylene phthalate polymers.

* * * * *

(e) * * *

(4) * * *

List of Substances and Limitations

(i) * * *

Ethylene terephthalate copolymers: Prepared by the condensation of dimethyl terephthalate or terephthalic acid with ethylene glycol, modified with one or more of the following: Azelaic acid, dimethyl azelate, dimethyl sebacate, sebacic acid, pyromellitic dianhydride. The level of pyromellitic dianhydride shall not exceed 0.5 percent by weight of the finished copolymer which may be used under conditions of use E through H as described in Table 2 of § 176.170(c) of this chapter.

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Dated: November 21, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95-29219 Filed 11-30-95; 8:45 am]

BILLING CODE 4160-01-F

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 253

[Docket No. 95-3 CARP]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress announces a cost of

living adjustment of 2.8% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio, for the use of copyrighted published nondramatic musical compositions. The cost of living adjustment is based on the change in the Consumer Price Index from October, 1994, to October, 1995.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or Tanya Sandros, Copyright Arbitration Royalty Panel Specialist, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: On December 22, 1992, the Copyright Royalty Tribunal published in the Federal Register final rules governing the terms and rates of copyright royalty payments with respect to certain uses by noncommercial educational broadcast stations of published nondramatic musical works and published pictorial, graphic and sculptural works. 57 FR 60957 (December 22, 1992). The Copyright Royalty Tribunal determined in that proceeding that colleges, universities, and other noneducational institutions which are not affiliated with National Public Radio would pay a royalty rate adjusted each year according to changes in the Consumer Price Index for the use of copyrighted published nondramatic musical compositions. 37 CFR 304.10. Accordingly, the Tribunal published a cost of living adjustment on December 1, 1993. 58 FR 63294 (December 1, 1993).

On December 17, 1993, Congress abolished the Copyright Royalty Tribunal. Copyright Royalty Tribunal Reform Act of 1993 (CRT Reform Act), Public Law 103-198, 107 Stat. 2304. The CRT Reform Act directed the Library of Congress and the Copyright Office to adopt the rules and regulations of the CRT as found in 37 CFR Chapter III. 17 U.S.C. 802(d). The Office subsequently reissued the CRT regulations on December 22, 1993. 58 FR 67690 (December 22, 1993).

In a later action, former 37 CFR 304.10, which calls for the annual cost of living adjustments to rates paid by college and university radio stations, was renumbered 37 CFR 253.10. 59 FR 23964 (May 9, 1994).

Accordingly, the Copyright Office of the Library of Congress is hereby performing the annual cost of living adjustment pursuant to the 1992 public

broadcasting rate adjustment proceeding.

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 1994, to the most recent Index published before December 1, 1995, was 2.8% (1994's figure was 149.5; 1995's figure was 153.7, based on 1982-1984=100 as a reference base). Rounding off to the nearest dollar, the adjustment in the royalty rate for the use of musical compositions in the repertoire of ASCAP and BMI is \$211 each and \$49 for the use of musical compositions in the repertoire of SESAC.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

2. Section 253.5 is amended by revising paragraphs (c)(1) through (c)(3).

§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(1) For all such compositions in the repertoire of ASCAP, \$211 annually.

(2) For all such compositions in the repertoire of BMI, \$211 annually.

(3) For all such compositions in the repertoire of SESAC, \$49 annually.

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Dated: November 21, 1995.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 95-29145 Filed 11-30-95; 8:45 am]

BILLING CODE 1410-33-P

37 CFR Part 255

[Docket No. RM 95-4 CARP]

Digital Performance Right in Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of voluntary negotiation period and final rule.

SUMMARY: The Copyright Office is initiating the six month voluntary negotiation period for negotiating terms

and rates for a compulsory license for digital subscription transmissions, and adopting the rate for a compulsory license for digital phonorecord delivery as required by the Digital Performance Right in Sound Recordings Act of 1995.

DATES: The effective date of this document is December 1, 1995. The initiation of the six month voluntary negotiation period is December 1, 1995. The effective date of the rate for digital phonorecord deliveries is February 1, 1996.

ADDRESSES: Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand delivered, they should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM-407, First and Independence Avenue, S.E. Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024, (202) 707-8380.

SUPPLEMENTARY INFORMATION: On November 1, 1995, the President signed into law the "Digital Performance Right in Sound Recordings Act of 1995" ("Digital Performance Act"), Pub. L. 104-39. The Digital Performance Act creates an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. See 17 U.S.C. 106(6).

Among the limitations on the performance of a sound recording publicly by means of a digital audio transmission is the creation of a new compulsory license for nonexempt subscription transmissions. The Digital Performance Act defines a "subscription transmission" as one that "is a transmission that is controlled and limited to particular recipients, and for which consideration is required to be paid or otherwise given by or on behalf of the recipient to receive the transmission or a package of transmissions including the transmission." 17 U.S.C. 114(j)(8). All nonexempt subscription transmissions are eligible for section 114 compulsory licensing provided they are not made by an "interactive service," which is defined in part as "one that enables a member of the public to receive, on request, a transmission of a particular sound recording chosen by or on behalf of the recipient." See 17 U.S.C. 114(j)(4).